IN THE HIGH COURT OF UTTARANCHAL
AT NAINITAL
Transfer Application No. 13 of 2005

Sachendra Singh Rawat, s/o
Late Sri Brij Mohan Singh Rawat,
R/o Brij Kunj
Malla Gorakhpur,
P.Shaldwani District Nainital Applicant.

Versus

1 State of Uttaranchal
2 Juvenile Board, Nainital
through its principal judge
3. Jitendra @ Jitu, s/o Shankar Chand
r/o Karyata Chatur Singh
Dewal Chaur, P.S, Haldwani
District Nainital. Opposite party

Hon'ble B.C. Kandpal, J

This petition has been filed by the petitioner under section 407 of Cr.P.C. on the ground that the applicant has no hope of justice from the court of Juvenile Board, Nainital, hence the matter be transferred to any other court in the State of Uttaranchal to hold enquiry as per requirements of the Juvenile Justice (care and Protection of Children) Act 2000.

Heard Ms Pushpa Joshi , learned counsel for the petitioner and perused the record.

It has been averred in the application that the day was fixed on 2.9.2005 before the Juvenile Board for inquiry but the order declaring that the accused was a juvenile was passed on 1 .9.2005, hence this order was passed without proper application of mind

The record reveals that this order was set aside by the Sessions Judge,Nainital in Criminal Appeal No. 28 of 2005 on 5.9. 2005 and

remanded the matter to the Juvenile Board, Nainital with the direction to hold inquiry as per the requirement of law.

Since the matter is pending before the Juvenile Board , Nainital and is to be decided in accordance with the provisions of law and in case if the order passed by the Juvenile Board is subsequently found to be illegal, arbitrary or against the provisions of law , the same can be put to challenge in appeal as the provision of the appeal is available to the applicant.

The ground taken in the affidavit filed along with the application does not appear to be convincing at this stage and I do not find out any sufficient ground to transfer the case from the Juvenile Board, Nainital to any other court of Uttaranchal.

Accordingly the application is dismissed.

(B.C. KANDPAL,J)

13.9.2005
NBJ